

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA
ERIE DOCKET

PAUL J. MCARDLE,)	Civil Action No. 1:12-0326
Plaintiff,)	
)	Chief United States District
v.)	Judge Gary L. Lancaster/
)	United States Magistrate Judge
JOSEPH W. HUFNAGEL, et al.,)	Cynthia Reed Eddy
Defendants.)	

MEMORANDUM ORDER

The above captioned case was filed on December 27, 2012, and was assigned to United States Magistrate Judge Cynthia Reed Eddy on February 5, 2013, pursuant to the Magistrate Judges Act, 28 U.S.C. § 636(b)(1) and the local rules of court, and in accordance with the new case assignment system now in place in the Western District of Pennsylvania. On March 4, 2013, the case was assigned to the undersigned United States District Judge as presiding judge, with United States Magistrate Judge Eddy remaining as the referral judge.

On February 27, 2013, the Magistrate Judge filed a Report and Recommendation (ECF No. 42) recommending that Defendants' several motions to dismiss (ECF Nos. 15, 19, 21, 26, 30, 33) be granted, Plaintiff Paul J. McArdle's federal claim be dismissed with prejudice, and his Pennsylvania common law claims be dismissed without prejudice. In her Report and Recommendation, Magistrate Judge Eddy found that there was no federal jurisdiction, and that the federal district court should decline to exercise supplemental jurisdiction over Plaintiff's Pennsylvania common law claims.

Plaintiff filed timely Objections to the Report and Recommendation on March 12, 2013, (ECF No. 48). Plaintiff's Objections do not undermine the recommendation of the Magistrate Judge in any way. After *de novo* review of the pleadings and documents in the case, together

with the Report and Recommendation, and the Objections thereto, the Court will adopt the Report and Recommendation as the opinion of the Court and will accept the recommendations set forth therein.

Plaintiff's Motion for a Status Conference, Oral Argument, and Leave to Commence Discovery (ECF No. 44) will be denied as moot.

Defendants' Motion for Sanctions (ECF No. 40) for multiple vexatious and frivolous actions will also be denied because this case is the first such action filed in this Court. Almost all of the vexatious conduct in furtherance of Plaintiff's frivolous litigation of which Defendants complain allegedly occurred in the state court arena, before the instant federal case was originated. It is premature to seek such sanctions in this Court.

AND NOW, this 14 day of March, 2013, for the foregoing reasons, **IT IS HEREBY ORDERED** as follows:

The various Motions to Dismiss (ECF Nos. 15, 19, 21, 26, 30, 33) are granted.

Count I is dismissed with prejudice, and Counts II through IV are dismissed without prejudice to attempt to re-raise them in the courts of Pennsylvania.

The Report and Recommendation (ECF. No. 42) of February 27, 2013, is adopted as the Opinion of the Court.

Defendants' Motion for Sanctions (ECF No. 40) is denied.

Plaintiff's Motion for a Status Conference, Oral Argument, and Leave to Commence Discovery (ECF No. 44) is denied as moot.

IT IS FURTHER ORDERED that the Clerk of Court mark this case closed.

AND IT IS FURTHER ORDERED that pursuant to Rule 4(a)(1) of the Federal Rules of Appellate Procedure, Plaintiff has thirty (30) days to file a notice of appeal as provided by Rule 3 of the Federal Rules of Appellate Procedure.

BY THE COURT:

A handwritten signature in black ink, appearing to read "G L Lancaster", written over a horizontal line.

Hon. Gary L. Lancaster,
Chief United States District Judge

cc: all counsel of record